IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.4183 OF 2005

Dharamdas V. Sanghavi)..Petitioner

Versus

Lalit V.Sanghavi and others ..Respondents

Mr.D.S.Chandanani for the Petitioner.

Mr.P.S.Abhyankar for Respondent No.2.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 18TH JULY 2005

P.C.:

. The Petition is directed against the order dated 17th March 2005 passed by the Appellate Court of the Small Causes at Bombay in Interim Notice No.1489 of 2004 dismissing the interim notice for condonation of delay in filing the Appeal. The grounds taken for condoning the delay in filing of the Appeal by the Petitioner are as follows :

(i) The Appellant had gone to Madras to see his ailing grand daughter for the period from 2nd April 2004 to May 10th 2004 and as such he could not contact his Advocate during the said period;

(ii) The learned Advocate of the Appellant was out of Bombay during the period from 10th May 2004 to 14th June 2004, therefore, appellant could not contact his Advocate during the said period;

(iii) The Appellant was given to understand that during the vacation when Court

remains closed, the period of limitation has to be excluded, therefore, the Appellant was under misconception about the period of limitation during which the appeal was to be filed;

(iv) The Appellant was given to understand that appeal period for preferring the appeal against the impugned order is 60 days.

2. It is pointed out by the learned Advocate for the Respondent No.2 that during the period when the Petitioner claims to have gone to Chennai between 2nd April to 10th May 2004, he in fact appeared along with his Advocate before the Court Receiver in Mumbai and his presence has been recorded in the Minutes by the Court Receiver which are at pages 50 and 51 of the Writ Petition. Therefore, the first ground sought to be made out by the Petitioner is false. The other grounds have also not been justified. Besides, ignorance of law is no excuse.

3. Reliance is placed by the Advocate for the Petitioner on the judgment of the Supreme Court in the case of *Ram Nath Sao alias Ram Nath Sahu and others* vs. *Gobardhan Sao and others*, **AIR 2002 SC 1201**. This decision cannot help a party who is dishonest while filing an Appeal. If the party was in Mumbai and did not file the Appeal within the period of limitation, it was necessary for the party to give cogent reasons for not filing the Appeal within the period of limitation. The grounds which the Petitioner has put forth have been

rejected by the Appellate Court and I see no reason to interfere with the same. Petition dismissed.